IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE N.V. RAMANA**

**WRIT PETITION NO : 10972 of 2004**

Between:

Burra Arjuna Rao, S/o.Ranganayakulu

Aged 62 years, Occ:Cultivation,

R/o.Chilakalapudi, Machilipatnam,

Bandar JCJC

**..... PETITIONER**

AND

1.The Machilipatnam Municipality,

Rep. by its Commissioner, Machiliptanam

2.NGO's House Building Construction,

Co-operative Society, rep. By its Secretary
Edepalli, Machilipatnam

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent herein not taking any action on petitioner representation dt 17-2-2004 as highly illegal arbitrary and violative of principles of natural justice and consequently direct the 1st respondent to forth with take action against the concerned people who are allowing their drainage water high handedly in to petitioners site bearing door No. 20-512 to an extent of 0.50 Cents situated in Chilakalpudi of Machilipatnam Municipality in spite of the order of the Hon'ble Civil Court dated 16-9-2003 in O.S. No. 262 of 2001.

**For the Petitioner:MR.V.RAJAGOPAL REDDY , Adovcate**

**For the Respondent No.1 : MR.T.S.VENKATA RAMANA, Advocate**

**For the Respondent No. 2 : --**

**The Court at the stage of admission made the Following :**

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 10972 OF 2004

ORDER:

This writ petition is filed questioning the action of the first respondent-Machilipatnam Municipality, in not taking any action on the petitioner's representation, dated 17.02.2004.

The petitioner claims to be tenant holding over and filed a suit in O.S.No.5 of 1984 on the file of the I Additional Junior Civil Judge, Machilipatnam questioning the interference by the second respondent herein and obtained a decree vide judgment dated 12-3-1990. Against the said order, an appeal filed in A.S.No.86 of 1990 was also dismissed by judgment dated 2-4-1998. The petitioner also filed W.P. No.1084 of 1998 against the respondents herein questioning their action in taking measurements for laying the road on the subject land, and the same is pending. It is further alleged that once again the respondents herein tried to lay the road in the month of January 2001 and

carted the sand and gravel in the subject land then the petitioner filed a suit in O.S.No.262 of 2001 on the file of the I Additional Junior Civil Judge, Machilipatnam seeking permanent injunction and that the said suit was decreed in favour of the petitioner by order dated 16-9-2003. The grievance of the petitioner in this writ petition is that the second respondent is letting out their drainage water from western side into petitioner's site which is causing discomfort to the petitioner. That the petitioner has made a representation dated 17-2-2004 requesting to take action against the second respondent and to take such steps to stop the letting the drainage water. Complaining that no action is taken thereon, the present writ petition is filed.

Heard learned counsel for petitioner and Mr.T.S.Venkata Ramana, learned Standing Counsel for second respondent.

As seen from the affidavit filed in support of the writ petition the grievance of the petitioner is that the inmates of the second respondent society are allowing drainage water into the petitioner's site, causing much inconvenience to the petitioner. Already the petitioner has filed a suit in O.S.262 of 2001 and obtained some orders as such there is no reason for him to file the present writ petition. If there is any violation of the said orders, the proper course for the petitioner is to bring the same to the notice of the concerned Civil Court and obtain necessary directions. More over, whether any such drainage water is let into the premises of the petitioner, is a disputed question of fact and the same cannot be agitated before this Court. In the circumstances,
I am of a considered opinion that no interference is warranted by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

There are no merits in the writ petition. Accordingly, the same is dismissed. However, the petitioner is at liberty to work out the remedies available under law. No costs.

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N.V.RAMANA, J

Dt.30th June, 2004

tvk

To

1..The Machilipatnam Municipality,

Rep. by its Commissioner, Machiliptanam

2..NGO's House Building Construction,

Co-operative Society, rep. By its Secretary
Edepalli, Machilipatnam

3.. 2 CCs to

4.. 2 CD copies

*Form-NIC-OGS/WP{**TRT**}*